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ABSTRACT

This report highlights recent legislation in Minnesota and California concerning charter schools, schools designed and run by teachers under contract with a public sponsor, and provides a brief overview of the issues involved in the establishment of charter schools as a strategy for improving public schools. In Minnesota, charter school legislation was passed because public school choice had not gone far enough, while California's legislation was in part an attempt to forestall a much more radical private-school voucher initiative now scheduled to appear on the ballot in 1994. Significant differences are listed between the two states' charter school processes, including how many charters the states allow, the application process, the appeals process, employment protection, requirements for racial balance, and whether private schools can apply. Thus far, while the charter school concept has not met with success in Minnesota, the local school boards are agreeing to sponsor at least four schools. In 1993, charter legislation is being proposed or is pending in at least 12 additional states. The report suggests that regardless of their ultimate success, charter schools offer some legislatures a politically attractive response to many of the demands being made upon them. (Contains 9 references.) (GLR)

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In Brief

STRATEGIC INVESTMENT: TOUGH CHOICES FOR AMERICA'S FUTURE

April 16, 1993

Editor's Note: This *In Brief* is taken from a January 1993 *Policy Bulletin* published by the Indiana Education Policy Center at Indiana University, Bloomington. It was written by Scott Williams and Mark Buechler and has been updated by NGA staff to reflect the most recent charter school initiatives.

Charter Schools

Introduction

This year several Governors proposed charter schools in their state of the state messages. Because charter schools are gaining attention as a means to reform education, there is a growing need for information on this subject. This *In Brief* highlights recent legislation in Minnesota and California and provides a brief overview of the issues involved in the establishment of charter schools as a strategy for improving public schools.

Background

As decision makers at every level consider the challenges of designing and implementing school choice plans, frustration is increasing with a reform effort that still exists more as theory than practice. Choice has been offered as a way to improve public schools by promoting competition and encouraging schools to develop diverse programs that respond to specific student needs. Many educators and policymakers, however, charge that choice is neither responding to nor driving meaningful school reform efforts. Students may be getting choice, these critics say, but they are getting few *choices*, few genuine educational options.

The main problem, according to Ted Kolderie, a senior associate with the Center for Policy Studies in St. Paul, is that under existing public school choice plans, local school districts retain an "exclusive franchise" for owning and operating the public schools (Kolderie, 1990). While some districts allow or even encourage significant innovations and options for students, many do not, says Kolderie. And neither public school choice nor site-based management nor any combination of the two will prompt stubborn districts to change, as long as they retain the sole right to own and operate the public schools in their area.

Some argue that the only way to overcome school district inertia is to implement a voucher program that includes private and parochial schools. Under such a plan, parents could send their children to a public or private school of their choice at taxpayer expense. However, voucher programs go too far, say Kolderie and others. Concerns range from the use of public dollars to support religious schools to the possible destruction of public education in America.

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In two states—Minnesota and California—there is now a third option, one that withdraws the district's exclusive franchise without allowing taxpayer dollars to flow to unregulated private and parochial schools. This new option is called the **charter school**, an independent public school of choice designed and run by teachers under contract with a public sponsor. The idea is to give schools "the opportunity to experiment with new approaches without jumping through the hoops that school districts often create," says Joe Nathan, director of the Center for School Change at the University of Minnesota's Humphrey Institute of Public Affairs (Nathan, 1991, p.5C). In return for such independence, charter schools are held accountable, through the contract, for the performance of their students.

Charter School Legislation in Minnesota

When Minnesota pioneered statewide public school choice in 1988, the belief was that competition for students would prompt significant innovations in the public schools. However, most districts have been slow to respond. With its charter school legislation, passed in 1991, the state has gone a step further in its effort to spur change in the schools. (This description of charter schools is what was enacted in Minnesota in 1991. The 1993 legislative session is planning revisions to this law.)

The Content of the Legislation. Under the legislation, one or more licensed teachers may start a new school—or convert an existing school (public or private) into a new school—if they can find a local school board to sponsor their effort. The organizing teachers and the sponsor draw up a three-year contract specifying program features and student performance. If a charter school fails to meet the student performance specifications in the contract, the contract may be revoked.

Complying with the contract does not guarantee a school's continued existence, however. As a school of choice, a charter school must also attract enough students to remain viable. The school may target specific populations, such as at-risk students or those with a special curricular interest. However, the school may not screen applicants based on intellectual or athletic ability. If applications exceed available space, students must be chosen by lot.

The method for financing charter schools in Minnesota is modeled after the state's system for financing school choice. For each enrolling student, a charter school receives the base amount of aid available statewide. In effect, this amount combines the state and local levy. In addition, compensatory funds for at-risk students and categorical funds for special education students accompany those students to the charter school. These extra funds, typically associated with choice plans, are intended as an incentive for organizers to accommodate students with special needs.

Features of a Charter School

- designed and run by teachers
- offers innovative instructional methods and programs
- free from state regulation and district management
- attended by students who choose the school
- operates under contract with a public sponsor (such as a local school board)
- must meet student performance standards specified in the contract
- nonsectarian, nondiscriminatory, and tuition free

In return for the risks associated with outcome-based accountability and choice, a charter school is granted considerable autonomy. It is governed by a board of directors elected by teachers and parents of enrolled students. The board, which must include a majority of teachers, has final authority over all budgeting, personnel, curricular, and administrative matters. Additionally, charter schools are exempt from all state law and regulations, with the following exceptions: the schools must meet health and safety standards; they are subject to fiscal review; and they must not discriminate, charge tuition, or have a religious affiliation. "It's simple," says Ember Reichgott, the state senator who introduced the bill. "Teachers trade away regulation for results, and bureaucracy for accountability" (Olson, 1992a, p.20).

Political Compromises. As originally passed by the Minnesota Senate, the charter school bill had no limit on the number of such schools permitted and would have enabled the state board, as well as the local board, to sponsor charter schools. However, because of political compromises necessary to get the bill passed, the final version limits the number of charter schools to eight statewide and restricts sponsorship to local school boards. (Teachers may, however, seek support from boards outside the district where the school will be located.)

Although these compromises may have diluted the impact of the original bill, charter school supporters in Minnesota hope that by coupling choice with innovation and autonomy with accountability, charter schools will increase the range of genuine options for students within the public school system.

Charter School Legislation in California

In Minnesota, charter school legislation was passed because public school choice had not gone far enough. In California, on the other hand, the legislation was in part an attempt to forestall a much more radical private-school voucher initiative now scheduled to appear on the ballot in 1994.

California's charter school legislation, passed in 1992, resembles Minnesota's in that it authorizes the establishment of schools largely free of bureaucratic supervision. In return, the schools agree to be held accountable for student performance levels specified in a contract with the local school board. Also, the schools must be nonsectarian, nondiscriminatory, and tuition free. Students choose charter schools, and per-pupil funding follows the student directly to the school.

Although the two pieces of legislation have the same overall framework, they differ in several ways, as the chart on this page indicates. Three differences are especially worth noting. First, California should provide a more far-reaching test of charter schools, authorizing 100 such schools as opposed to Minnesota's 8. Second, a charter school organizer in California must get half of the teachers in an existing public school, or one tenth of the teachers in a district, to sign a charter school petition. These teachers may or may not be part of the new school, but they at least have to demonstrate support for it. Addition-

Minnesota and California Charter School Legislation: Significant Differences

	Minnesota	*California*
How many charter schools does the state allow?	8 statewide	100 statewide (but no more than 10 per district)
Who may sponsor a charter school?	any local school board (subject to state board approval)	local board of district in which charter school is located (subject to possible appeal to the county board of education)
What is the application process?	one or more teachers may apply for a charter	one or more persons may apply for a charter provided that 50% of the teachers in a public school, or 10% of the teachers in a district, support the application (if 50% of the teachers in a district are in favor, the district may convert all its schools to charter schools)
Is there an appeals process for denied charters?	no	may be appealed to the county board of education
Are there employment protections for charter school teachers?	districts must grant charter school teachers an unlimited leave of absence	to be specified in the charter
What type of organization is a charter school?	either nonprofit or cooperative	to be specified in the charter
Must the charter school maintain racial balance?	yes	the racial and ethnic balance in the school must reflect that of the district as a whole
May private schools apply for charters?	yes	no
May nonlicensed personnel teach in charter schools?	no	yes
May charter schools set admission requirements for students?	no	yes

ally, if 50% of the teachers in a given district support the charter application, the district may convert all its schools to charter schools. There are no such provisions in the Minnesota law.

The final difference involves the role of private schools. In Minnesota, an existing private school may apply for charter school status. To become a charter school, however, it must relinquish certain private school prerogatives, among them the right to employ nonlicensed teachers and to set admission requirements for students. In California, on the other hand, existing private schools are expressly forbidden from becoming charter schools. But nonlicensed persons may start and teach in charter schools, and the schools may set admission requirements, such as entrance exams, for students. However, the prerogative to screen students is limited by the requirement that charter schools maintain racial balance.

Public and Private Considerations

Society has in the past maintained a rigid barrier between public and private schools. As the Minnesota and California legislation demonstrates, charter schools are, among other things, an attempt to soften that barrier. In somewhat different ways, the two states are now combining aspects of schooling historically considered public, such as access and funding, with those considered private, such as responsiveness and freedom from bureaucratic entanglement.

In fact, many proponents view charter schools as an attempt to redefine "public" education. Instead of defining public education by "who owns the buildings or who hires the teachers," we should define it by who gets served, argues U. S. Senator Dave Durenberger from Minnesota (1991, p.1). Instead of defining it by rigid mandates and rules, we should define it by "outcomes—and by principles and values" (Durenberger, 1992, p.2). The core principles of public education, according to Durenberger, include free and universal availability, nonsectarianism, nondiscrimination, and accountability to the public at large.

It is these fundamental principles, proponents say, that separate charter school initiatives from voucher plans that authorize the use of public funds to support unregulated private schools. Private schools may teach religion, legally engage in certain forms of discrimination, and charge tuition. Also, they are accountable only to the students and parents they serve, not to the greater public. Charter schools are accountable not only to students and parents but to the sponsor as well—and through the sponsor to the public at large. This arrangement allows for public scrutiny of both financial and academic records.

Despite these differences, critics still see charter school initiatives as a veiled attempt to subsidize private education. Robert Astrup, president of the Minnesota Education Association, suggests that a charter school may turn out to be little more than an "elite academy" created with public funds (Astrup, 1992, p.29). Proponents respond that charter schools' fidelity to the core principles of public education renders this concern moot.

Other Issues and Concerns

The resemblance between charter school initiatives and voucher plans is not the only concern being raised about this new type of school. Other concerns range from the loss of dollars to the fate of collective bargaining.

Loss of Funds. Anytime parents choose to send their child to a charter school, the child's resident school district loses money. This potential loss of dollars is a major concern for charter school opponents, who worry that the district's ability to offer quality education to the remaining students will suffer as a result.

Free All Schools? If freedom from regulation is such a good idea for charter schools, then perhaps all schools would benefit from a similar reduction in bureaucratic oversight, say charter school opponents. "If the legislature wants to fix the system, why not give all schools in Minnesota the chance to function without the 1,600 mandates that are on the books?" asks Ronald McIntire, superintendent of the Winona school district (Smetanka, 1992, p.36).

Teachers' Rights. Teachers at charter schools in Minnesota may organize in two ways: 1) as a nonprofit agency, with teachers forming a separate bargaining unit to negotiate with the school's board of directors, or 2) as a cooperative, with all teachers sharing partnership in the school in the same way that doctors share in the ownership of a practice. California teachers specify in the charter the kind of bargaining process, or lack thereof, to be established in the school.

Both the California and Minnesota teachers' associations viewed these legislative provisions as a threat to collective bargaining and tenure rights. They also strongly opposed the use of nonlicensed teachers in charter schools. In Minnesota, this opposition was partially responsible for the late amendment to the bill authorizing only licensed teachers to teach in charter schools. No such provision appears in the California legislation.

Too Many Compromises? On the other side, there are those who feel that, due to political compromises, neither piece of legislation went far enough. For one thing,

the only available charter school sponsors in either state are local school boards, which stand to lose control, students, and money to the very schools they are being asked to support. "That's sort of like putting the fox in charge of the chickens," says Peggy Hunter, enrollment options coordinator for the Minnesota Department of Education (Olson, 1992b, p.26). This provision is doubly ironic in that withdrawing the exclusive franchise of the school district was one of the primary purposes of the original charter school concept.

Another potential constraint is that neither state allocated any capital funds for the development of charter schools. The schools get the same per-pupil funds as other schools in a district, but no start-up costs for bricks and mortar or classroom equipment. This may limit considerably the opportunity for teachers to open new schools. Given the lack of funding, not to mention the effort and risk involved in starting a charter school and the general opposition of teachers' unions and school boards, one has to wonder how many teachers will be willing to make the attempt.

Partly to address the funding problem, Senator Durenberger introduced federal charter schools legislation, the Public School Redefinition Act of 1991, which would have offered start-up grants for charter schools in states that authorize them. Language from the bill was eventually included in Senate Bill 2, the Neighborhood Schools Improvement Act, which recently fell victim to election year politics and never came up for a vote. So for now, teachers in Minnesota and California will have to find outside sources of funding and/or lease existing facilities.

Results to Date

The first two charter school applications in Minnesota seemed to confirm the fears of critics. One was from a private Montessori school and another from a small rural public school slated for closing. "These examples are a far cry from the predictions of charter school supporters that the new schools would be 'innovative' and 'reach out to groups not now being served' by public schools," says Astrup (p.29).

It is only to be expected, supporters point out, that the initial applications would come from already existing schools. "Certainly schools that already have a base are going to be the first applicants," says Representative Becky Kelso, who sponsored charter school legislation in the Minnesota House. "What we would hope to see in time is groups of people who have new ideas in education, who start from ground zero to build a new school" (Smetanka, 1992, p.36). Indeed, over the past few months, more than a dozen additional proposals have been put forth, ranging from an agribusiness school to a "neuro-stimulation" program (see Minnesota Department of Education, 1992). Among them:

- a school where students from ages 12 to 20 would design, build, market, and sell wooden toys and crafts, learning basic and business skills in the process;
- an ungraded school for 11- to 15-year-olds with a community-focused curriculum based on peace, ecology, and the development of moral values;
- a program called CHOICES that allows groups of students to work independently on projects, with teachers acting as facilitators and parents helping in the classroom.

Although local school boards in Minnesota have not eagerly embraced the charter school concept and have turned down some proposals, they do not seem bent on obstructing the law, as some charter school supporters had feared. Thus far, local boards have agreed to sponsor five schools. Four of these were approved by the state board of education (see "Approved Charter Schools in Minnesota" box this page), and one was turned down.

Approved Charter Schools in Minnesota

- **Bluffview Montessori**: a private Montessori school that has "gone public"
- **Toivola-Meadowlands**: a small rural school originally slated for closing, now a multi-age classroom school with an environmental theme
- **City Academy**: a year-round school serving students who have dropped out of other schools
- **Metro Deaf**. a middle school for deaf students, who will learn sign language along with deaf history and culture

A Growing Movement?

Charter school legislation recently has been passed in Georgia and New Mexico. At least twelve states—Alaska, Arizona, Colorado, Connecticut, Florida, Massachusetts, Michigan, New Jersey, Pennsylvania, Tennessee, Vermont, and Wisconsin—have charter school legislation either proposed or pending in 1993. The provision for the establishment of charter schools is most often one component of a larger legislative package. In addition, several other states and cities have been or soon will be experimenting with pilot programs.

As yet it is too early to determine the merit of this educational reform. Charter schools may be a promising compromise between public school choice and private school vouchers, with the potential for providing teachers an opportunity to innovate and students new options for learning. However, five years ago public school choice entered the educational arena with a similar promise, and in many cases it has failed to make good.

The best way to judge the charter school movement may be simply to observe the variety and quality of schools that emerge in Minnesota and California over the next couple of years. If the schools are successful, then perhaps it will be time, as Senator Durenberger and others have proposed, to broaden the meaning of public education. Regardless of their ultimate success or failure, however, charter schools today offer some legislatures a politically attractive response to many of the demands being made upon them—a response not just to the calls for private school choice but also to demands for deregulation, teacher empowerment, and dramatic educational change.

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